

104TH CONGRESS
1ST SESSION

H. R. 1505

To amend the Portal to Portal Act of 1947 to limit the award of liquidated damages to employees of States and political subdivisions.

IN THE HOUSE OF REPRESENTATIVES

APRIL 7, 1995

Mr. McKEON (for himself, Mr. GOODLING, Mr. CUNNINGHAM, and Mr. RIGGS) introduced the following bill; which was referred to the Committee on Economic and Educational Opportunities

A BILL

To amend the Portal to Portal Act of 1947 to limit the award of liquidated damages to employees of States and political subdivisions.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. FINDINGS.**

4 The Congress finds that the imposition of liquidated
5 damages under the Fair Labor Standards Act of 1938 on
6 State and local governments for the nonpayment of mini-
7 mum wages or overtime compensation can create a wind-
8 fall for State and local government employees and an in-
9 justice to the taxpaying public if the nonpayment was a

1 technical, insubstantial, or unavoidable violation of such
2 Act.

3 **SEC. 2. LIMIT ON LIQUIDATED DAMAGES.**

4 Section 11 of the Portal to Portal Act of 1947 (29
5 U.S.C. 260) is amended by designating the text of the sec-
6 tion as subsection (a) and by adding at the end the follow-
7 ing:

8 “(b) In any action commenced before, on, or after
9 the date of the enactment of this subsection against a
10 State or political subdivision of a State to recover unpaid
11 minimum wages, overtime compensation, or liquidated
12 damages under the Fair Labor Standards Act of 1938,
13 the State or political subdivision shall not be liable to pay
14 liquidated damages relating to such unpaid minimum
15 wages or overtime compensation—

16 “(1) if the State or political subdivision shows
17 to the satisfaction of the court that—

18 “(A) the minimum wages or overtime com-
19 pensation were paid by an instrument defined
20 under the laws of the State or political subdivi-
21 sion as negotiable, or

22 “(B) the minimum wages or overtime com-
23 pensation were not paid because of insolvency
24 of the State or political subdivision, failure of
25 the State or political subdivision to enact a

1 budget, or a natural disaster or other condition
2 beyond the control of the State or political sub-
3 division;

4 “(2) to any employee who cannot demonstrate
5 to the satisfaction of the court that the employee
6 suffered any actual harm as the result of the
7 nonpayment of minimum wages or overtime com-
8 pensation.

9 For purposes of paragraph (2), the term ‘actual harm’
10 shall be interpreted by the court to include only those cir-
11 cumstances where an employee has substantiated more
12 than a minimal monetary loss that is separate from, but
13 owing to, the nonpayment of minimum wages or overtime
14 compensation.”.

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